

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 26TH DAY OF MAY 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No. 14572 of 1998

Sri Gurunath Kalappa Kambar
major, Occ: Agriculturist
Resident of Katapura Village
Taluk: Badami, Dist. Bagalkot .. PETITIONER

(By Sri F.V.Patil, Advocate)

- Vs -

1. The Assistant Commissioner
Bagalkot Sub-Division
Bagalkot

2. Smt. Shavantravva
wife of Mallappa Kambar

3. Nimbanna
son of Mallappa Kambar

4. Mahadevi
d/o Mallappa Kambar

5. Siddalingappa
son of Mallappa Kambar

respondents 4 and 5 are minors
represented by their guardian
mother i.e. 2nd respondent -
Smt. Shavantravva

6. Residents of Sirur Village
Taluk & Dist. Bagalkot .. RESPONDENTS

(By Sri N.P.Singri, HCGP)

This writ petition is filed under
Articles 226 and 227 of the Constitution of
India praying to quash vide Annexure-D dt.
18.3.98 by R-1 and etc.

This petition coming on for
preliminary hearing this day, the Court made
the following:

ORDER

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Sri N.P.Singri, learned Government Pleader is directed to take notice for the 1st respondent.

2. In this petition, the petitioner has challenged the correctness of the order dated 19th March 1998, a copy of which has been produced as Annexure-D passed by the 1st respondent setting aside the order passed by the Tahsildar refusing to enter the name of the respondents-3 to 5 in the revenue records.

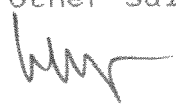
3. Learned counsel for the petitioner submitted that the lands in question are tenanted lands and occupancy right was granted in the name of the uncles of the petitioner one Mallappa on behalf of the joint family consisting of the petitioner, his father one Kallappa and others and under these circumstances, the Tahsildar was fully justified in rejecting the request made by respondents-2 to 5 to enter their name in the revenue records on the ground that the dispute between the parties is already before the



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Civil Court. He further disputed the claim of the respondents-2 to 5 that they are the legal heirs of the said Mallappa.

4. I do not find any justification to interfere against the order impugned. Even according to the learned counsel for the petitioner, suit for partition is pending before the Civil Court. Whether the 2nd respondent is the wife of the said Mallappa or not, whether the occupancy right has been granted in favour of the said Mallappa as a Manager of the joint family consisting of the petitioner, his father and others or not is a matter which could be adjudicated upon by the Civil Court. Therefore, I am of the view that this is not a fit case for me to exercise my extraordinary jurisdiction either under Article 226 or 227 of the Constitution of India. However, it is necessary to observe that the Civil Court will consider the claim of the parties without being influenced by the observation made in the order impugned and also the observation made during the course of this order, while considering the several questions that may arise for consideration in the pending suit or any other suit that may be



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instituted pertaining to the lands in question. It is also needless to observe that the entries made in the revenue records pursuant to the impugned order will be subject to the result of the suit. Subject to the observation made above, this petition is dismissed.

5. Sri N.P.Singri, learned Government Pleader is given four weeks' time to file his memo of appearance.



Sd/-
JUDGE

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pmg/